IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Crl.MC.No. 2246 of 2007()

CC.721/2003 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVOOR, KOLLAM

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PETITIONER: ACCUSED:

Y.P. BAIJU, AGED 39 YEARS,
S/O. PAVITHRAN, PROPRIETOR, M/S. SKYLINK
INTERNATIONAL, NO.55/346, VENUS CHAMBERS,
KANNAMTHODATHU LANE, VALANJAMBALAM, ERNAKULAM FROM
THODIYIL VEEDU, MUNDAKKAL, KOLLAM DISTRICT.

BY ADV. SRI.V.VENUGOPALAN NAIR

RESPONDENTS: COMPLAINANT:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
EAST POLICE STATION, KOLLAM.

3. P. SELVARAJ,
PROPRIETOR, M/S. PALANI JEWELLARY, PARIPPALLY,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
MR.ALEXANDER, KELAMCODE, KOLLAM.

R1 & 2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2246 of 2007

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Dated this the 12th day of July, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Actr. Cognizance has been taken. But the petitioner has not entered appearance. Consequently, reckoning him as absconding, the learned Magistrate has issued coercive process against the petitioner. The petitioner finds a non-bailable warrant issued by the learned Magistrate chasing him.

2. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful as no notice had ever been served on him. The learned counsel for the petitioner submits that he is willing to appear before the learned Magistrate. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I find no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. His bail application, if filed with sufficient prior notice to the Prosecutor, must be disposed of on the date of surrender itself.

4. The petitioner undertakes to appear before the learned Magistrate on 23.7.2007. Till that date the warrant of arrest issued against the petitioner shall not be executed.

5. This Crl.M.C. is accordingly dismissed with the above observations/directions.

6. Hand over copy of the order.

(R. BASANT)
Judge

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